

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JENNIFER GIERER ,)
)
Plaintiff,)
)
)
v.) Case No. 4:17CV2624 HEA
)
REHAB MEDICAL INC.,)
)
Defendants.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion to Reconsider, [Doc. No. 36]. Defendant opposes the Motion, [Doc. No. 38]. Plaintiff filed a Reply on November 12, 2018, [Doc. No. 40]. For the reasons set forth below, the Motion is denied.

On September 30, 2018, the Court granted Defendant's Motion for Summary Judgment. Plaintiff now asks the Court to reconsider its decision.

Rule 60(b) are used as a vehicle to consider whether there was, in a final order, some "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence ...; (3) fraud ..., misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged ...; or (6) any other reason that justifies relief." In a Rule 60(b) proceeding the moving party must "establish 'exceptional circumstances' to

obtain the ‘extraordinary relief’ the rule provides.”*De Wit v. Firststar Corp.*, 904 F.Supp. 1476, 1496 (N.D.Iowa 1995) (quoting *United States v. Tracts 10 & 11 of Lakeview Heights*, 51 F.3d 117, 119 (8th Cir.1995)

Plaintiff is attempting to argue again those matters already argued on the Motion for Summary Judgment. It is not the purpose of a Rule 60(b) motion to relitigate those arguments already presented. *Broadway v. Norris*, 193 F.3d 987, 990 (8th Cir.1999) (“[A motion for reconsideration] is not a vehicle for simple re-argument on the merits.”).

In addition, Plaintiff has failed to set out any exceptional circumstances necessary to obtain the relief Rule 60(b) provides. On this issue Plaintiff continues attempts to relitigate issues already decided by this court, rather than to enumerate those aspects of exceptional circumstances as mandated by Rule 60(b).

Conclusion

The Court finds no basis of law or fact to warrant the relief requested by Plaintiff. The Opinion, Memorandum and Order in this matter will not be or otherwise affected. The Motion is denied.

Accordingly,

IT IS HEREBY ORDERED that the Plaintiff’s Motion to Reconsider,

[Doc. No. 36], is **DENIED**.

Dated this 29th day of April, 2019.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE